

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**SUIT NO.1245/2022  
ALONGWITH SUIT NOS.1280 & 1281 OF 2022**

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Date	Order with signature of Judge
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Suit No.1245/2022: For hearing of CMA No.12304/2022.  
Suit No.1280/2022: For hearing of CMA No.12299/2022  
Suit No.1281/2022: For hearing of CMA No.12466/2022

**22.11.2023**

Mr. Rashid Mahar advocate for plaintiff.

M/s. Zamir Hussain Ghumro and Faizan Hussain Memon advocates for defendants.

Ms. Shaista Parveen holding brief for Mr. Kashif Haneef advocate.

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Heard, perused the record.

2. At the outset learned counsel for defendants while relying upon 2019 SCMR 924 (PTA vs. Pakistan Mobile Communication Limited) contends that show cause notice cannot be challenged here as remedies of appeal and revision are provided before the High Court and the Tribunal. In present case petitioner approached Islamabad High Court by filing writ petition No.2993/2022 and by order dated 15.08.2022 after arguing at length before that court, they withdrew that petition to avail appropriate remedy of appeal provided under the law in reference to the orders passed by the authority that the petitioner's believes are in conflict with the provisions of law and sought to withdraw that petition. Accordingly that petition was withdrawn.

3. Learned counsel for plaintiff has relied upon section 22 of the Pakistan Telecommunication (Re-organization) Act 1996 which is reproduced herewith:-

22. Modification of licence conditions.—(1) Subject to subsection (2), the Authority shall have the right to modify a licence or its conditions with the consent of the licensee

(2) If the Authority and a licensee cannot agree to modification proposed by the Authority to a license condition, the Authority and the licensee shall resolve their difference or dispute through consultation and negotiation. If the licensee and the Authority fail to amicably resolve such difference or dispute, either party may make an application to the High Court or a Tribunal established by the Federal Government for the purpose and the High Court or as the case may be, the Tribunal shall exercise exclusive jurisdiction to adjudicate and settle all matters connected therewith and in exercise of such jurisdiction the High Court or the Tribunal as the case may be shall follow the procedure, as nearly as possible, as provided in the Code of Civil Procedure, 1908 (Act V of 1908):

Provided that no such amendment shall vary the tenure or scope of a license.

(3) After the expiry of the initial or renewed term, the license may be renewed on terms and conditions consistent with the policy directive, if any, of the Federal Government at the relevant time.”

4. Perusal of above reflects that remedy to plaintiff is only to challenge the proceeding of the defendants before Tribunal or any final order passed by the defendants, in an appeal before High Court. In present case impugned notice is not a final show cause notice but a simple show cause notice, hence powers provided to the defendants under statutory Act cannot be snatched at the outset if any party come in civil suit. Accordingly, earlier order is hereby recalled. Defendants may proceed and learned counsel for plaintiff would be competent to argue the matter on next date.

To come up on 21.12.2023 as per Roster. Office to place copy of this order in captioned connected suits.

**J U D G E**